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Report of the Secretary-General on children and armed conflict in Myanmar

Summary

The present report, submitted pursuant to Security Council resolution 1612 (2005) and subsequent resolutions, covers the period from 1 April 2009 to 31 January 2013 and is the third report on children and armed conflict in Myanmar to be submitted to the Security Council and its Working Group on Children and Armed Conflict. The report provides information on grave violations against children in Myanmar and identifies parties to the conflict responsible for such violations.

During the reporting period, the country task force continued to verify incidents of child recruitment and other grave violations by the Myanmar Armed Forces (Tatmadaw) and other parties to the conflict. In June 2012, pursuant to Security Council resolutions on children and armed conflict and in line with previous conclusions of the Working Group of the Security Council on Children and Armed Conflict, an action plan to end and prevent the recruitment of children by the Tatmadaw was signed between the Government of Myanmar and the country task force. This significant development builds on ongoing initiatives by the Government of Myanmar to address the issue of underage recruitment into military service, including through training and awareness-raising activities for military personnel on international and national human rights, strengthening child protection systems at local and national levels, and its commitment to end the use of forced labour, including underage recruitment, by 2015.

The report notes that the country task force and its partners remained constrained by access and security impediments that presented a challenge for effective monitoring, verification and reporting of grave violations against children by listed parties in Myanmar. The report contains a series of recommendations aimed at strengthening action for the protection of children affected by armed conflict in Myanmar.

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I. Introduction

1. The present report, which covers the period from 1 April 2009 to 31 January 2013, has been submitted pursuant to Security Council resolutions 1612 (2005), 1882 (2009), 1998 (2011) and 2068 (2012) and specifies grave violations against children affected by armed conflict in Myanmar. It is a follow-up to my second report (S/2009/278), and provides an update on implementation of the conclusions of the Working Group of the Security Council on Children and Armed Conflict (S/AC.51/2009/4) issued on 28 October 2009, pursuant to my second report.

II. Political, military and social developments in Myanmar

2. From 2010 to 2012, conflict continued between the Government and the Shan State Army South (SSA-S) in southern Shan State. Tensions between the Tatmadaw and the Shan State Army North (SSA-N) escalated into clashes from June 2011 onwards, resulting in internal displacement of civilians. Also in June 2011, fighting resumed between the Kachin Independence Army (KIA) and the Tatmadaw, breaking a 17-year-old ceasefire agreement. Clashes also continued on the Thai-Myanmar border between the Karen National Liberation Army (KNLA) newly allied to the Democratic Karen Benevolent Army (DKBA)[1] Brigade 5 and the Tatmadaw and DKBA border guard force.

3. Ceasefire-related discussions between the Government and non-State armed groups that had begun under the previous Government gained momentum during the reporting period. In April 2009, the Government attempted to direct non-State actors with which it had a ceasefire agreement either to disband their armed groups and transform into political parties, or to become an armed border guard force under the command of the Tatmadaw. Since the elections in 2010, the new Government has resumed outreach to non-State armed groups, resulting in ceasefire agreements with 10 out of 11 major ethic armed groups. Out of the seven Myanmar parties listed in the annexes to my eleventh annual report (S/2012/261), six had concluded ceasefire agreements with the Government at the end of the reporting period. KIA is the only listed party that did not have a ceasefire agreement with the Government, although recent talks between KIA and the Government have shown promise.

4. As part of the peacebuilding and national reconciliation process, President Thein Sein announced the establishment of a 52-member Union Peace-making Committee and an 11-member Union Peace-making Central Committee, with the President as Chair. In November 2012, the Myanmar Peace Centre was established in Yangon, serving as the secretariat of the two committees above-mentioned and providing a common platform for all actors involved in the peace process.

5. The elections held in November 2010 and the appointment of a civilian-led administration in March 2011 have yielded opportunities for enhanced collaboration between the Government and the international community. Nevertheless, during the reporting period, access to vulnerable groups, including children, in many areas of the country continued to be challenging for United Nations agencies and other international humanitarian and development actors, and continued to limit the

[1] In 2011, the Democratic Karen Buddhist Army changed its name to Democratic Karen Benevolent Army, as the armed wing of the Klohtoobaw Karen Organization.

ability of the country task force and its partners to monitor and report on grave violations perpetrated against children by all parties to the conflict.

III. Grave violations of children's rights

6. Limited access, or lack of access, in some ceasefire, non-ceasefire and conflict-affected areas and security constraints, continue to present a challenge to reporting and documenting grave violations against children by listed parties in Myanmar. The present report is only indicative of the gravity and scale of violations against children.

A. Recruitment of children by armed forces and groups

Tatmadaw Kyi (Tatmadaw including integrated border guard forces)

7. Although the Government has made strides to halt all recruitment of children into its armed forces in line with relevant legislation, the Tatmadaw continued to recruit and use children throughout the reporting period. The country task force on monitoring and reporting documented incidents and allegations of child recruitment reported through Government agencies, action plan processes, and other credible sources. The International Labour Organization (ILO) forced labour complaints mechanism also contributed to identifying cases of child recruitment in Myanmar. From the cases recorded, including cases of the release of children notified by the Tatmadaw, the majority of recruitment incidents occurred in Yangon, Mandalay, Bago and Ayeyarwaddy Regions.

8. From April 2009 to December 2012, the country task force was notified of the release of 448 cases of underage recruits from the Tatmadaw. Of these, 148 were recruited in 2009, 84 in 2010, 63 in 2011 and at least 18 in 2012. Sixty-seven cases were recruited prior to the reporting period. For the remaining 135 cases, information on date of recruitment is not available. It should also be noted that at least 12 cases of underage recruitment into the Tatmadaw were reported to the country task force since signature of the action plan in June 2012.

9. During the reporting period, the ILO forced labour complaints mechanism received 802 complaints of underage recruitment by the Tatmadaw, of which 770 were verified.[2] Of these, 172 related to recruitment in 2009, 134 in 2010, 123 in 2011 and 32 in 2012. The remaining verified cases took place outside of the reporting period. The number of complaints increased from 78 in 2009 to 274 in 2012.

10. The above figures indicate a steady decrease in underage recruitment by the Tatmadaw throughout the reporting period. This may be attributed to ongoing efforts of the Committee for the Prevention of Military Recruitment of Underage Children to strengthen screening and documentation procedures for recruitment. Concurrently, the increase in the number of reported complaints of underage recruitment reflected an enhanced awareness among the Tatmadaw and the general

[2] Underage recruits released under the ILO forced labour complaints mechanism include cases who were recruited *under* the age of 18 years and are *over* the age of 18 years at the time of complaint and discharge, recognizing that reaching the age of majority for a person who was recruited as a child does not serve to legitimize his/her illegal recruitment.

public of the issue of underage recruitment and of channels for raising cases, including through implementation of the action plan, the ILO forced labour complaints mechanism, local-level child protection groups, and national and international protection actors.

11. Recruiters continued to target working and unaccompanied children at workplaces, bus and train stations, ferry terminals and markets and in the streets, and orphans and non-working children in home villages and wards. Recruitment from railway stations was common owing to the fact that a number of recruitment unit branches are located in central railway junctions. The country task force noted that the majority of boys recruited were between the ages of 14 and 17 years. However, at least 60 cases of underage recruitment during the reporting period related to children between the ages of 11 and 13. Children as young as 10 years old have also been reported to have been recruited in the Tatmadaw.

12. Cases of verified child recruitment included children who had "voluntarily" joined the Tatmadaw and others who had been forced by threat or deception. These children pointed to a number of reasons for joining the Tatmadaw, including extreme poverty, lack of livelihood opportunities; the desire to join peers, avoidance of school; and problems with family members or relatives. In one such case, in May 2009, a 15-year-old boy who had quarrelled with his mother approached the recruitment unit in Yangon where he was recruited. The boy was released a few months later after his parents complained to the Tatmadaw. Children who were deceived into joining the Tatmadaw indicated that they were enticed by Tatmadaw soldiers or by civilian brokers with the promise of jobs and a good salary, and then forced to enlist. In some cases, underage recruits indicated that they only became aware of their official recruitment after receiving uniforms or being sent to training school. Two cases of abduction by Tatmadaw soldiers were also reported. In 2012, the country task force verified two cases of child recruitment by the Tatmadaw involving abduction of boys (16 and 17 years of age) reportedly by infantry battalion soldiers who forced the boys to join the army under threat. Both boys managed to escape from the battalion where they were initially being held prior to recruitment.

13. The country task force has received information that underage recruits continued to be deployed to the frontline with exposure to combat duties. In May 2012, the country task force was notified of nine cases of underage recruits associated with the Tatmadaw who were deployed to the frontline in Kachin State, where they were captured and held by KIA. ILO facilitated the release of the underage recruits and is liaising with the Tatmadaw for the official discharge of those released. While one child reportedly ran away prior to release, the remaining eight were released on 14 January 2013. The United Nations Children's Fund (UNICEF), in collaboration with the Department of Social Welfare and local partners, facilitated the provision of temporary shelter and reintegration support for each case.

14. The country task force observed a trend in the reporting period of "cross-recruitment", where soldiers from battalions in one part of the country recruited in another region, possibly when on home leave or travelling on mission. For example, in September 2011, a 13-year-old boy from Laputta Township in Ayerwaddy Region was coerced into leaving his home village by a neighbour and a Tatmadaw private from a battalion from Kalaw Township in Shan State, hundreds of kilometres away. Reportedly, incentives such as promotion prospects, granting of leave, permanent

discharge or avoiding punishment for absence without leave exist for Tatmadaw soldiers who find new recruits. The country task force remained concerned that such practices, along with the use of civilian brokers, increase the risk of recruitment from vulnerable groups.

Non-State armed groups that transformed into border guard forces

15. Two non-State armed groups transformed into border guard forces under the aegis of the Tatmadaw during the reporting period and no longer operate independently of the Tatmadaw.

Karenni National People's Liberation Front

16. On 8 November 2009, the Karenni National People's Liberation Front (KNPLF) transformed into a Tatmadaw border guard force. The country task force has no information on whether the demobilization of children formed part of the discussions between the Tatmadaw and KNPLF. KNPLF was removed from the annexes to my annual report on Children and Armed Conflict and is now under the command of the Tatmadaw integrated border guard forces.

Myanmar National Democratic Alliance Army

17. Credible reports were received that children were seen at the Myanmar National Democratic Alliance Army (MNDAA) checkpoints during the clashes between MNDAA and the Tatmadaw in August 2009. The clashes caused the displacement of thousands of ethnic Kokang into China. According to information obtained by the country task force, the majority of what remained of MNDAA transformed into a border guard force (as Tatmadaw battalion 1005) in 2010. The country task force has no information on whether the demobilization of children formed part of the discussions between the Tatmadaw and MNDAA.

Non-State armed groups in Myanmar

18. Throughout the reporting period, the country task force continued to receive reports of recruitment and use of children by non-State armed groups in Myanmar. The presence of children in these groups remains an issue of serious concern. In the action plan signed in June 2012, the Government committed to take all feasible measures to facilitate processes that seek to end child recruitment by non-State armed groups. Invoking this provision, the country task force continued to advocate with the Government to engage in dialogue with non-State parties on prevention of recruitment and other grave violations against children, as well as greater access for monitoring.

Democratic Karen Benevolent Army

19. DKBA transformed into a border guard force in August 2010. However, Brigade 5 of DKBA remained outside the border guard arrangements and loosely allied itself with KNLA. In 2011, reports were received of troops deserting from the DKBA border guard force to join the breakaway DKBA Brigade 5. Consequently, it has been difficult to ascertain whether reports of grave violations received after August 2010 refer to the DKBA border guard force or to DKBA Brigade 5. Previous reports received by the country task force in 2009 and 2010 indicated that many DKBA soldiers, including children, were allegedly recruited through a variety of methods, including village lotteries, forced recruitment and coercion, as part of the

organization's efforts to scale-up in preparation for transformation into a border guard force. Armed children were observed working for DKBA-run businesses, particularly DKBA-run tollgates. In one township in Kayin State, locals estimated that at least 50 children were working for DKBA in their township alone. In 2011, the country task force continued to receive reports with respect to both the DKBA border guard force and DKBA Brigade 5 of forced recruitment and coercion, irrespective of age, unless payment in lieu of recruitment was received. In November 2011, DKBA Brigade 5 signed a ceasefire agreement with the Government.

20. The country task force was able to verify six cases of child recruitment by DKBA in Kayin State during the reporting period, involving children between the ages of 10 and 16 years. One case involved a 10-year-old girl who was recruited by DKBA as a porter for food and cooking items. Another three cases involved children being used as porters on a temporary basis. One case involved an 11-year-old boy who was recruited by DKBA for use as a porter for a period of 10 days in June 2009.

Kachin Independence Organization/Kachin Independence Army

21. Reports of increased recruitment by KIA were regularly received by the country task force in the latter half of 2011 and early 2012 as tensions mounted in Kachin and northern Shan States. For example, the country task force received a complaint in June 2011 of the alleged recruitment by KIA of four girls for military training. In August 2011, the country task force received information on the case of a 15-year-old boy from Hpar Khant, Kachin State, who was found guilty of destroying public property by laying mines for KIA. There were reports that KIA was actively recruiting in urban areas, among Kachin families, and that the recruitment did not exclude children. The country task force also received allegations of children joining KIA to avoid being picked up by Tatmadaw forces for use as porters on the front line. In 2012, additional reports indicated that children were present in the ranks of KIA. One indicative case reported in April 2012 involved the abduction of three boys, approximately 14 years old, by KIA from a village in Wine Maw Township. In December 2012, reports of forced recruitment and use by KIA of villagers and internally displaced persons (IDP) in camps in Kachin State, including children, were received but could not be verified owing to lack of access to the area. Reports from child protection partners alleged that a KIA requirement for each family to provide one male member for KIA service was resulting in child recruitment.

Karen National Union (KNU)/KNLA Peace Council

22. The KNU/KNLA Peace Council reportedly includes children. On only one occasion (during the previous reporting period) have representatives of the country task force had the opportunity to meet with the Peace Council. In 2010, the Peace Council refused to transform into a border guard force in keeping with Government orders. On 7 February 2012, the Peace Council renewed a ceasefire agreement (originally signed in 2007) with the Government.

Karen National Union/Karen National Liberation Army

23. On 25 April 2009, KNU/KNLA issued a press release highlighting the fact that it had invited the United Nations on several occasions to monitor its military bases and areas of operations and had offered open and independent access for compliance

verification. KNU/KNLA also expressed its willingness to enter into dialogue with the United Nations to verify compliance with its commitment not to recruit or use children. KNU/KNLA also committed to investigate any allegations of child recruitment received.

24. The country task force verified reports of six cases of child recruitment by KNU/KNLA during the reporting period. In one incident, a 14-year-old boy was recruited from a refugee camp into KNU/KNLA.

25. KNU/KNLA signed a ceasefire agreement with the Government of Myanmar on 12 January 2012, which was breached when armed conflict broke out again in March and June 2012. Peace negotiations between KNU/KNLA and the Government took place in September 2012. It should be noted that in 2007 KNU/KNLA sought to conclude an action plan with the United Nations in line with Security Council resolution 1612 (2005). As the security situation improves, the country task force will prioritize engagement with KNU/KNLA, calling on provisions of the action plan signed by the Government in 2012 to facilitate access to non-State armed groups for purposes of dialogue on ending and preventing the recruitment of children.

Karenni National Progressive Party/Karenni Army

26. On 18 April 2009, the Executive Committee of the Karenni National Progressive Party (KNPP) issued a press release, in addition to the communiqué to my Special Representative, highlighting the fact that it had invited the United Nations on several occasions to monitor its military bases and areas of operations and had offered open and independent access for compliance verification, as well as expressed its willingness to enter into dialogue with the United Nations. It noted that all children will be free from conscription into the Karenni Army (KA) and appealed for the group to be removed from the annexes. KNPP also committed to investigate any allegations of child recruitment received. KNPP signed a ceasefire agreement with the Government in mid-2012 and peace talks are continuing. It should be noted that in 2007 KNPP/KA sought to conclude an action plan with the United Nations in line with Security Council resolution 1612 (2005). As the security situation improves, the country task force will prioritize engagement with KNPP/KA in 2013, calling on provisions of the action plan signed by the Government in 2012 to facilitate access to non-State armed groups for purposes of dialogue on ending and preventing the recruitment of children.

Shan State Army-South

27. Children are present in SSA-S. As tension mounted in Shan State in 2011, the country task force received reports of further child recruitment by SSA-S. In a report received in July 2011, SSA-S was said to have allegedly enlisted 216 "youth", both male and female, to fight against the Tatmadaw. The country task force received additional credible information of SSA-S child recruitment in Moe Ne Township in southern Shan State, where, in August 2011, a total of 60 people were said to have been recruited from villages in that township, two of whom were 13 years old.

United Wa State Army

28. The country task force received allegations that the armed conflict in Laukai at the end of August 2009 resulted in the reinforcement and deployment of United Wa

State Army (UWSA) troops in the respective frontier areas. This included a requirement for ex-Wa armed personnel and youth in many villages to be on standby in case of combat. The country task force received reports that, beginning in June 2009, local authorities in the villages undertook new recruitment and that militia training was ongoing at the village level. Child recruitment was reported in some villages where adult candidates were not available from selected households. A number of credible reports in 2012 indicated that children were still present in the ranks of UWSA. The country task force also received information on the use of boys by UWSA at checkpoints and to secure UWSA offices.

29. The country task force also received allegations of up to 17 recruits, including children, being trafficked by a civilian broker based in Namkham in Shan State to UWSA. The country task force was able to verify a case in October 2010 in which two children and three youths 18 years old left their village, ostensibly to work as agricultural labourers in the Palaung ceasefire area, but instead were trafficked to UWSA, where they had to undertake forced labour.

B. Killing and maiming of children

30. During the reporting period, children were victims of landmines, unexploded ordnance, improvised explosive devices, mortar and rocket-propelled grenade attacks, and cross-fire between armed groups and the Tatmadaw. The majority of reported incidents took place in Kachin and Kayin States. During the reporting period, the country task force verified that at least 55 children were killed or maimed as a result of conflict-related violence, while a further 38 unverified reports of children being killed or maimed were received. These figures are indicative only of the scale and severity of incidents affecting children in conflict areas, as access remained severely limited.

31. In Kayin State, in January 2012, a bomb reportedly laid by KNU injured four children (2 boys, 10 and 12 years old; and 2 girls, 14 and 17 years old) and killed a 12-year-old girl. In Kachin, an incident of maiming of a 12-year-old boy was reported and verified by the country task force on monitoring and reporting in June 2012. The incident was reportedly caused by a Tatmadaw mortar that exploded in front of the boy's house. The Tatmadaw and non-State armed groups, such as KNU/KNLA, KNPP/KA, DKBA, UWSA and KIA, continued to use anti-personnel mines in order to restrict the movement of people, to hinder the movement of troops or to mark areas of operations. In one case in September 2009, a 13-year-old boy was maimed by a landmine in an area occupied and patrolled by DKBA. In another case, on 14 March 2010, a 14-year-old boy and two 16-year-old girls sustained serious injuries when their bus travelling to Shwe Kyin Township in Mon State hit a mine. On 12 February 2011, a 7-year-old girl sustained multiple injuries to her legs as a result of a landmine in Kawkreik Township in Kayin State. In Kayah State, three children died and one was injured in a mine-related incident in mid-2012. On 20 January 2013, two boys (ages 14 and 15 years) were killed and one boy was injured by a landmine explosion in Kachin State.

32. In Kachin, where conflict continued throughout the reporting period, the country task force received nine reports of killing and maiming of children in the latter half of 2011 owing to fighting between the Tatmadaw and KIA, of which it was able to verify four incidents. In June 2011, a 16-year-old girl from Bamaw

Township died when caught in cross-fire between the Tatmadaw and KIA. In August 2011, a three-year-old boy was killed in cross-fire while fleeing his village in Bamaw Township with his grandmother. In the same month, five children and one teacher were seriously injured when their school in Mansi Township was fired on by the Tatmadaw. In October 2011, the country task force confirmed that KIA troops shot at a family at their residence in Muse Township, where two were injured and three killed, including the 14-year-old son of the household. Also in October, a toddler and his parents were killed during an attack on a village by a Tatmadaw light infantry battalion in Mansi Township. Reports also include a July 2011 incident in which a 17-year-old boy in Kamaing Township was reportedly shot by the Tatmadaw while trying to flee recruitment as a porter. As the conflict intensified between the Tatmadaw and KIA in Kachin State in late 2012 and early 2013, including air strikes and shelling of KIA military posts by the Tatmadaw and the use of improvised explosive devices by KIA in public places, the country task force received reports of at least 10 children injured and 6 children killed, between the ages of 2 and 17 years, in January 2013.

C. Sexual violence against children

33. Throughout the reporting period, the country task force received credible information from a number of sources of incidents of rape and sexual violence perpetrated both by the Tatmadaw and by non-State armed groups. Rape and sexual violence are prohibited under the Myanmar Penal Code, and cases perpetrated by civilian offenders are investigated and prosecuted through the police and courts. However, the prosecution of rapes by Tatmadaw soldiers falls under the jurisdiction of military courts. Little is known about these processes, notably about the investigation and prosecution of sexual violence by non-State armed groups. Continuing conflict in the south-east part of the country in the first half of the reporting period, and renewed conflict in Shan and Kachin States, resulted in increased reports of sexual violence in 2010 and 2011. However, the United Nations has been unable to verify these reports.

D. Abduction of children

34. As described above, during the reporting period there were allegations and verified cases of children being abducted for recruitment purposes, indicating that a pattern of abductions still persists, particularly with those who are used by Tatmadaw battalions at a young age and kept informally in battalions without being presented to recruitment units and training schools.

35. In addition, the country task force received reports of children abducted for retaliation, or on suspicion of association with enemy parties, both by the Tatmadaw and non-State armed groups. In one case in February 2011, KNU/KNLA reportedly abducted five boys (between the ages of 10 and 13 years) in Wut Gyi village in Hpa-an Township of Kayin. Children from Thandaunggyi Township, Kayin State, were taken by the Tatmadaw on the basis of suspicion of association with non-State armed groups. Villagers also reported that young girls are married under the age of 15 years in order to provide a limited form of protection from abduction by the Tatmadaw and armed groups such as KNU/KNLA, the DKBA border guard force and DKBA Brigade 5. In May 2012, the country task force received credible reports

that 50 KIA soldiers had entered a village in Waing Maw Township in Kachin and abducted 17 Shan ethnic minority villagers, including three girls, aged 13, 14 and 15 years. The whereabouts of the three girls are still unknown.

E. Attacks on schools or hospitals

36. During the reporting period, the country task force documented regular school and clinic closures in Kayin, Kachin and, to a lesser extent, Shan States owing to conflict. In addition, there were a number of reports of attacks on schools and hospitals by the Tatmadaw and other non-State armed groups. In Kayin State, the country task force verified an incident in February 2010 following an offensive conducted by Tatmadaw light infantry battalions in Ler Doh Township, Nyaunglebin District. During the offensive, a high school and nursery school in Thi Baw Tha, Kwee Lah village tract were destroyed. In addition, Thi Baw Tha clinic, serving approximately 3,000 people, was burned down. On 11 May 2011, the country task force verified that the public hospital in Kawkareik in Kayin State was partially destroyed as a result of fighting between the Tatmadaw and DKBA/KNLA alliance forces.

37. With the resurgence of conflict in Kachin State in 2011 and 2012, the country task force received reports of schools being closed for long periods and schools damaged by shelling and mortar fire. In July 2011, the country task force documented that a school in Mone Hkawng village in Mansi Township was damaged by a Tatmadaw mortar attack. In August 2011, the country task force verified a case that a school in Kawng Lwin village in Mansi Township was damaged by artillery fire. In the same month, the country task force received reports that the Tatmadaw had laid mines near a school in a village in Myitkyina Township in order to prevent KIA from using the school as a base. The village rural health centre was destroyed and looted by Tatmadaw soldiers based in the village. Also in August 2011, a school in the Ngan War region of Kachin was hit by a mortar. Five children and one teacher were seriously injured. As conflict escalated in late 2012 between the Tatmadaw and KIA, the country task force received reports that several schools in conflict-affected areas of Kachin such as Hpakan, Laiza, Myitkina, Bhamo, Injanyang and Waingmaw remained closed through January 2013 owing to fear for student safety and danger caused by shelling, air strikes and mortar fire. In a verified incident on 13 September 2012, Tatmadaw soldiers reportedly opened fire on civilians in Sut Ngai Yang village in Kachin, killing a 14-year-old girl in school uniform, who was shot in the back when returning home from Hpakan Basic High School with her teacher and friends. The girl was reportedly prevented by the Tatmadaw from seeking immediate medical assistance until three hours after the incident. On the same day, Tatmadaw soldiers from Hpakan military base also reportedly fired a series of mortar rounds in the same village, with some exploding near Sut Ngai Yang primary school.

F. Denial of humanitarian access

38. Recent political developments have yielded opportunities for enhanced collaboration between the Government and the international community, including engaging in dialogue on humanitarian access. For example, in 2011, following renewed insecurity in Kachin State, United Nations agencies and non-governmental

organizations (NGOs) were able to undertake a rapid assessment and respond to identified needs in government-controlled areas. Also in 2011, agencies were approached to resume activities in areas such as the Wa Special Region, where some of the agencies had been requested to suspend operations in 2009 on grounds of security concerns.

39. Despite progress in access, the Government continued to restrict access to various parts of the country throughout the reporting period, citing security concerns as the main reason for limiting the presence and travel of international and national personnel of relief agencies. During the reporting period, the United Nations continued to advocate with the Government of Myanmar and non-State armed groups for access to all IDP locations in conflict areas, including Kachin State. While assistance could generally be provided to areas serviced by the Government in Kachin State, access for United Nations assistance through convoys to most IDP locations in hard-to-reach areas has not been granted since mid-July 2012, citing security concerns. As access negotiations continue, the United Nations is providing assistance, where possible, through implementing partners on the ground in and around conflict zones. In March 2013, encouraging progress was made in talks between the Government and the Kachin Independence Organization on access and the delivery of humanitarian assistance to affected areas of Kachin.

IV. Dialogue and action plans to redress violations and abuses committed against children

A. Progress on dialogue and action plans with the Government of Myanmar

40. On 27 June 2012, following six years of negotiations, assisted by my Special Representative, the Government of Myanmar and the country task force signed an action plan to end and prevent the recruitment and use of children in the Tatmadaw, including the integrated border guard forces. The action plan was signed in the presence of my Special Representative on Children and Armed Conflict.

41. The action plan contains a set of commitments to be pursued by the Government and the country task force over an initial 18-month timeframe. The commitments include the systematic identification, registration and release of all children under the age of 18 recruited and used in the Tatmadaw; the reintegration of such children into their communities; the strengthening of recruitment procedures to ensure the prevention of further child recruitment by the Tatmadaw; public awareness-raising on prevention and release; training and capacity-building for the Tatmadaw on international human rights, humanitarian law and child protection; and the strengthening of disciplinary action against perpetrators.

42. Following signature of the action plan, the Tatmadaw appointed a senior liaison officer to oversee its implementation. In addition, a joint committee comprising country task force members and officials from the Tatmadaw and the Ministries of Foreign Affairs; Social Welfare, Relief and Resettlement; and Defence was formed.

43. Since June, progress has been made in the implementation of the action plan. The country task force and the Tatmadaw developed detailed operational procedures

for the identification, the verification and the discharge of children under the action plan. In August 2012, the Tatmadaw, with support from the country task force, organized training for military focal points on the action plan and operational procedures. The Tatmadaw reported that multiplier trainings on the action plan were carried out by military focal points in each regional command, throughout September 2012, targeting battalion adjutants as the persons responsible for identifying and registering suspected children within their battalions. In addition, the Tatmadaw issued directives on implementation of the action plan and has developed communications materials on the action plan to be distributed to military personnel at all levels.

44. In September 2012, under the framework of the action plan, a total of 42 children were discharged by the Tatmadaw at a discharge ceremony in Yangon. In October 2012, the country task force submitted 25 new cases of child recruits, received through the ILO complaints mechanism, to the Tatmadaw senior liaison officer for further verification under the action plan framework, the verification of which was still pending at the end of the reporting period. By December 2012, a further 24 suspected children were identified by the Tatmadaw and later discharged in February 2013. The country task force highlighted the fact that the identification and the discharge of children in the first six months of the action plan has been both slow to proceed and low in number. It is anticipated that numbers identified for discharge will increase significantly as the Tatmadaw rolls out the identification process across all military units, as country task force monitors are able to access operational regiments, and as communication materials on the action plan are disseminated within the Tatmadaw and to the general public as part of a multi-media information campaign to be launched in early 2013. A dedicated telephone line and postal box were established by the country task force in November 2012 to receive information from the general public on cases of child recruitment.

45. Without prejudice to the progress made in implementing the action plan, since January 2013, the country task force highlighted the four following concerns regarding substantive implementation of the action plan to be addressed as a matter of urgency:

(a) **Identification and discharge of children**: to date, the identification of children has been proceeding slowly, with limited dissemination of information on the action plan beyond senior levels of the Tatmadaw. In response to this challenge, dialogue intensified between senior level officers and members of the country task force on monitoring and reporting. The Tatmadaw has informed the country task force of some of the challenges faced in identifying children and verifying ages, particularly the difficult and time-consuming process of discovering falsified documents and tracing authentic age-verification documents, noting that many people do not have original versions of key documentation such as birth certificates, family lists or school leaving certificates to enable prompt and proper verification. Despite these challenges, the Tatmadaw reported that the identification process is ongoing under the supervision of regional commands. At the time of reporting, however, the country task force was not able to verify or support the implementation of the identification process at the battalion level, which hampers timely compliance efforts.

(b) **Unconditional access for the country task force to monitor implementation of the action plan across all military facilities where children may be present**: the action plan stipulates that country task force monitoring teams

will have access to military bases, prisons and other places where children may be present to monitor and verify implementation of commitments under the plan. However, in December 2012, the Tatmadaw advised the country task force that access to operational regiments/battalions would be subject to their consideration upon completion of country task force monitoring of regional commands, recruitment and training facilities. As at 31 January 2013, monitoring activities of the country task force to verify implementation of the action plan remained restricted by the Tatmadaw to regional commands, recruitment units and training schools.

(c) **Dissemination beyond senior level officers**: at the end of the reporting period, the country task force noted that awareness of the action plan and its key commitments was limited to senior military personnel at headquarters and regional levels, and to focal points directly engaged in the implementation of the action plan. There remains a need for active dissemination of the action plan to military personnel at all levels within the Tatmadaw to ensure that the commitment to identify and discharge children from the Tatmadaw is well understood and implemented across all ranks. In parallel, the country task force is pursuing community-based monitoring activities under the action plan, including public awareness-raising on the action plan, to support further identification of children in the Tatmadaw and to accelerate compliance.

(d) **An exception regarding "relaxation of age restrictions"**: despite the Tatmadaw's demonstrated commitment to ending and preventing the recruitment of children under the age of 18 years through the signature of the action plan, the country task force expressed concern regarding an existing Tatmadaw exception that contradicts the purpose of the action plan by allowing the recruitment of children who are 16 years old who have passed the tenth grade and have obtained special authorization from the Office of the Adjutant General. The Government shared correspondence dated 31 January 2012 and 6 March 2009 related to the "relaxation of age restrictions for military service in the armed forces" and referring to letter No. 1/131/Yay 1(a) of 30 April 1996 articulating this exception. The Government informed the country task force that, in 2012, a total of 167 recruits falling within this exception were enlisted. The country task force highlighted the inconsistency between this exception and a core aim of the action plan to identify and release all children recruited under 18 years of age. At the time of reporting, dialogue was continuing between the Tatmadaw and the country task force to address this concern in line with the action plan.

46. The country task force is working closely with the Tatmadaw to jointly explore ways to address these concerns. Significant substantive implementation of the action plan will need to be prioritized in the next reporting period. This can best be demonstrated through (i) consistent, continuous and comprehensive identification and registration of children and timely discharge of those identified; (ii) active dissemination of the key commitments under the action plan to ensure that all military personnel are aware of its commitments and encouraged to support effective identification and verification of children; and (iii) prompt facilitation of country task force access to military facilities, including operational regiments, in order to verify progress against the action plan and support its implementation at the ground level.

B. Progress on dialogue and action plans with non-State actors

47. During the reporting period, there was little direct dialogue between the country task force and non-State armed groups on grave violations against children owing to access restrictions by the Government in conflict-affected ceasefire and non-ceasefire areas. The country task force continued to advocate with the Government at the highest levels to facilitate access to non-State armed groups for the purposes of dialogue to end and prevent the recruitment and use of children. Within the provisions of the action plan signed in June 2012, the Government committed to take all feasible measures to facilitate processes that seek to end child recruitment by non-State armed groups, and to secure the release and discharge of children within its sovereign territory. Government compliance with these provisions has yet to be tested, as efforts in the latter half of 2012 focused on supporting effective identification and discharge of children from the Tatmadaw. However, the country task force continued to advocate with the Government and with non-State armed groups to include the protection of children affected by armed conflict as an important aspect of ceasefire negotiations and peace talks. These efforts were reinforced by the Government having signed a Memorandum of Understanding in June 2012 with the ILO to end the use of forced labour, including the recruitment of minors, by 2015.

48. The country task force, in conjunction with my Special Representative, continues to advocate for the inclusion of the action plan commitments in any peace dialogue between the Government of Myanmar and non-State armed groups listed in my annual report on children and armed conflict.

V. Follow-up and programmatic response to violations and abuses committed against children

Prevention of recruitment and addressing impunity against perpetrators

49. During the reporting period, the country task force observed a progressive strengthening of documentation and screening procedures for recruitment as part of efforts to prevent underage recruitment. Prior to signature of the action plan, the Tatmadaw reported that new prevention measures were introduced. Such measures include the filming of key aspects of the recruitment process in the four principal recruitment units (in Yangon, Mandalay, Shwebo and Magway); fingerprinting all prospective new recruits for inclusion on an electronic database held by the Directorate of Military Strength; circulating the names of rejected recruits to headquarters and to all recruitment units to prevent re-recruitment elsewhere; and establishing scrutiny panels of officers from the recruitment unit and training school to carry out additional age and willingness checks. Accordingly, in October 2012, the Tatmadaw advised that, as recruit screening now rests at the regional command level, a new "scrutiny board" was established in each of 14 regional commands (composed of four members including a recruitment unit officer, a training school officer, a medical officer and the regional military focal point) to review the age and the willingness of all prospective new recruits, with ultimate responsibility for ensuring that child recruitment does not occur.

50. As an indication of strengthened procedures to prevent child recruitment, the Government reported that from January 2009 to December 2012, a total of 1,830

prospective new recruits were rejected (360 in 2009; 390 in 2010; 532 in 2011; 548 in 2012).

51. The country task force also noted that a number of new military directives were issued during the reporting period stipulating an end to underage recruitment, including instructions issued in accordance with the action plan and agreed operational procedures, regarding the identification and release of underage recruits. The Tatmadaw advised that a new directive from the Directorate of Military Strength was issued in October 2012 requiring that all new recruits present an original Citizenship Scrutiny Card as a minimum prerequisite for recruitment. Recruitment officers interviewed in 2012 as part of country task force monitoring activities cited strict documentation and age-check procedures as the reason for a drop in recruitment numbers per year and some mentioned difficulties in meeting recruitment targets. Military personnel from recruitment units and training schools also reported that reduced numbers of child recruits, owing to improved screening practices and increased accountability measures, was in turn resulting in a reduced number of deserters and soldiers absent without leave.

52. The Committee for the Prevention of Military Underage Recruitment of Children continues to share reports with the United Nations on numbers of children released from the Tatmadaw (including those released under the action plan), awareness-raising activities undertaken by senior-level officers on the prevention of underage recruitment, and disciplinary actions taken against those involved in underage recruitment. The measures outlined above and the continuing efforts of the Committee for the Prevention of Military Underage Recruitment of Children provide evidence that the Tatmadaw is taking action to prevent and halt the recruitment and use of children. However, the impact of these strengthened measures and new instructions and the consistency of their application across all facilities where recruitment takes place, including their dissemination and application to border guard forces, will need to be reviewed over time as part of country task force monitoring under the action plan.

53. In response to cases of underage recruitment, the Tatmadaw increased measures to ensure accountability of those involved in underage recruitment. On 20 April 2012, the Commander-in-Chief of the Tatmadaw issued a directive that action would be taken against those who recruit children under the age of 18 under section 374 of the Myanmar Penal Code (under civilian jurisdiction), in addition to regular action taken under section 65 of the Defence Services Act (under martial law). The Government shared documents indicating that from 2009 to 2012, an increasing number of disciplinary actions were taken against perpetrators involved in the recruitment and use of children in the armed forces (40 in 2009; 51 in 2010; 55 in 2011; and 73 in 2012). The range of disciplinary measures included rank demotion, salary deduction, imprisonment, reprimand, serious reprimand, pension reduction and dismissal. The majority of cases were subjected to reprimand or serious reprimand.

54. During the reporting period, the country task force welcomed the positive development by which the Government accepted the principle that underage recruits charged with desertion be discharged and released from prison on the basis of their illegal recruitment. However, it is of concern that arrests of underage recruits who are labelled as "absent without leave/AWOL" or "deserters" continued. Some "deserters" are subjected to long-term imprisonment while others live in hiding and

are unable to pursue a normal life for fear of arrest and detention. From 2009 to 2012, ILO documented a total of 172 underage recruits who were absent without leave. Out of these cases, 16 "deserted" in 2009, four of whom were arrested and subsequently released; 24 deserted in 2010, 17 of whom were arrested and 13 subsequently released; 57 deserted in 2011, 19 of whom were arrested and none had been released by the end of the reporting period — one of whom died while in prison. A total of 75 deserted in 2012, 1 of whom was arrested. ILO documented a further 27 underage recruits imprisoned under charges of desertion, who were released under amnesty in 2012.

VI. Recommendations

55. I welcome the signature of the action plan between the Tatmadaw and the United Nations to end and prevent the recruitment and use of children and the progress made since my last report on children and armed conflict in Myanmar. It remains crucial to keep the momentum and to implement the provisions of the action plan without further delay. In this regard, I urge the Government to ensure that the following actions are undertaken immediately:

(a) Identify, register and discharge all children within the ranks of the Tatmadaw in coordination with the country task force on monitoring and reporting;

(b) Rescind the military instruction on "relaxation of age restrictions for military service in the armed forces" permitting the recruitment of those who are 16 years of age who have passed the tenth grade standard examinations;

(c) Cease with immediate effect the arrest, the harassment and the imprisonment of children or adults over the age of 18 who were recruited as minors, for desertion and/or attempting to leave the army, and ensure their swift and unconditional release;

(d) Facilitate access by the country task force on monitoring and reporting to military facilities, operational battalions and other areas where children may be present, including by allowing access to operational regiments and battalions, in addition to regional commands, recruitment units and training schools;

(e) Hold accountable perpetrators of child recruitment and use, including through systematic investigation of all incidents and prosecution of military and civilian individuals responsible for such acts. To this end, relevant military and civilian courts should also allow for independent verification of their proceedings by the country task force on monitoring and reporting;

(f) Remove all incentives and rewards for meeting recruitment targets and quotas that increase the risk of child recruitment;

(g) Facilitate access by the country task force on monitoring and reporting to other listed parties in Myanmar to engage in dialogue with a view to developing action plans to end the recruitment and use of child soldiers and to address other grave violations as appropriate.

56. While recognizing that complaints of underage recruitment can be and are independently made directly to the Ministry of Defence, I encourage the Government to maintain and strengthen the ILO forced labour complaints mechanism as it relates to underage recruitment.

57. I call on the Government of Myanmar to sign and ratify the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict without further delay and to align national legislation and practice. I also call on the Government to fully implement recommendations made by the Committee on the Rights of the Child as contained in its concluding observations adopted on 3 February 2012, notably those related to children involved in and affected by armed conflict (CRC/C/MMR/CO/3-4).

58. In the framework of continued peacebuilding efforts of the Government, I call upon the Government to ensure that child protection provisions, including their separation and reintegration, are included in the dialogue for new ceasefires and peace agreements.

59. Taking note of the security situation, continued lack of full and unimpeded access in contested and ceasefire areas is an impediment to providing essential humanitarian assistance for children. In this regard, I call upon the Government of Myanmar to ensure full and unhindered humanitarian access by the United Nations and other humanitarian organizations to affected populations.

60. All non-State parties in Myanmar, many of whom have been listed for five years in my annual reports and are therefore persistent perpetrators, are urged to immediately halt and prevent the recruitment of children and to release all children present in their ranks in cooperation with the country task force on monitoring and reporting. These parties, who are in peace talks with the Government of Myanmar, are also requested to enter into dialogue with the United Nations for the preparation and the implementation of action plans to end child recruitment and use.

61. The country task force should, in cooperation with the Government, strengthen its monitoring, reporting, prevention and response activities regarding all grave violations against children in Myanmar, through raising awareness and building understanding, capacity and confidence among Government, non-Government, United Nations and community-based organization partners to integrate grave violations monitoring, prevention and response into their child protection and sectoral programmes.